

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

SONYA J. ABRAMS,)	
)	
Plaintiff,)	
)	Case No. 1:14-cv-272-JMS-MJD
vs.)	
)	
FMS INVESTMENT CORP.,)	
)	
Defendant.)	

PLAINTIFF’S MOTION FOR CLASS CERTIFICATION¹

Plaintiff Sonya J. Abrams (“plaintiff”) respectfully requests that this Court enter an order determining that this action may proceed as a class action against defendant FMS Investment Corp. (“FMS” or “defendant”). Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et. seq. (“FDCPA”).

Plaintiff brings this action on behalf of two classes, defined as follows:

The first class consists of (a) all individuals with addresses in Illinois, Indiana or Wisconsin (b) to whom defendant sent or caused to be sent a letter in the form of Exhibit A (c) which did not identify the current creditor or owner of the debt; (d) which letter was sent during a period beginning one year prior to the filing of this action and ending 20 days after the filing of this action.

The second class consists of (a) all individuals with addresses in Illinois, Indiana or Wisconsin, (b) to whom defendant sent or caused to be sent a letter in the form represented by Exhibit A (c) which included a “miscellaneous balance,” (d) which letter was sent during a period beginning one year prior to the filing of this action and ending 20 days after the filing of this action.

¹ Exhibits referenced are attached to Memorandum in Support of Plaintiff’s Motion for Class Certification.

Plaintiff further requests that Edelman, Combs, Lattuner & Goodwin, LLC be appointed counsel for the classes.

In support of this motion, plaintiff states:

NATURE OF THE CASE

1. Defendant has been attempting to collect from plaintiff an alleged student loan debt incurred for personal, family or household purposes.
2. On or about December 2, 2013, defendant sent plaintiff the letter attached as Exhibit A.
3. Exhibit A is the first letter plaintiff received from defendant regarding the debt described therein.
4. On information and belief, based on its contents, Exhibit A was the first letter defendant sent to plaintiff regarding the debt described therein.
5. Defendant violated the FDCPA by failing to identify the current creditor or owner of the debt, and by adding a “miscellaneous balance” to the amount of the debt.

CLASS CERTIFICATION REQUIREMENTS

6. All requirements of Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been met.
7. The class is so numerous that joinder is impracticable. On information and belief there are at least 40 class members. The matter turns on a form letter, designed to be mass produced and mailed in bulk. It is reasonable to assume that there are at least 40 people in the class. Plaintiff will obtain the exact number of class members through discovery and requests a briefing schedule long enough to obtain such information.

8. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members. The predominant common questions concern whether defendant's letters violate the FDCPA.

9. Plaintiff's claim is typical of the claims of the class members. All are based on the same factual and legal theories.

10. Plaintiff will fairly and adequately represent the class members. Plaintiff has retained counsel experienced in class actions and FDCPA litigation (Exhibit B).

11. A class action is superior for the fair and efficient adjudication of this matter, in that:

- (1) Individual actions are not economically feasible;
- (2) Members of the class are likely to be unaware of their rights;
- (3) Congress intended class actions to be the principal enforcement mechanism under the FDCPA.

12. In further support of this motion, plaintiff submits the accompanying memorandum of law.

13. Plaintiff is filing a class certification motion at this time because of the decision in *Damasco v. Clearwire Corp.*, 662 F.3d 891 (7th Cir. 2011).

WHEREFORE, plaintiff respectfully requests that this Court enter an order determining that this action may proceed as a class action.

Respectfully submitted,

s/Daniel A. Edelman

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CERTIFICATE OF SERVICE

I, Daniel A. Edelman, hereby certify that on February 24, 2014, I caused to be filed the foregoing document with the Clerk of the Court using the CM/ECF System, and shall cause to be served, as soon as service may be effectuated, a true and accurate copy of such filing via process server upon the following:

FMS Investment Corp.
c/o registered agent CT Corporation System
150 W. Market St., Suite 800
Indianapolis, IN 46204

s/Daniel A. Edelman